

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMADOR ACEVEDO,

Plaintiff,

-against-

THE CITY OF NEW YORK, P.O. RODRIGUEZ (tax
#937413), JOHN DOE 1,

Defendants.
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**ANSWER ON BEHALF OF
MICHAEL RODRIGUEZ**

14 Civ. 6767 (ALC)

Jury Trial Demanded

Defendant Michael Rodriguez by his attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for his answer to the complaint, respectfully alleges, upon information and belief, as follows:

1. Denies the allegations set forth in paragraph “1” of the complaint, except admits that plaintiff purports to proceed as stated therein.
2. Denies the allegations set forth in paragraph “2” of the complaint, except admits that plaintiff purports to proceed as stated therein.
3. Denies the allegations set forth in paragraph “3” of the complaint, except admits that plaintiff purports to invoke the jurisdiction of the Court as stated therein.
4. Denies the allegations set forth in paragraph “4” of the complaint, except admits that plaintiff purports to base venue as stated therein.
5. The allegations set forth in paragraph “5” of the complaint do not require a response.
6. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “6” of the complaint.

7. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “7” of the complaint.

8. Denies the allegations set forth in paragraph “8” of the complaint, except admits that the City of New York is a municipal organization.

9. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “9” of the complaint, except admits that P.O. Rodriguez is employed by the City of New York as a police officer.

10. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “10” of the complaint.

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “11” of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “12” of the complaint, except admits that plaintiff was arrested on October 26, 2011.

13. Denies the allegations set forth in paragraph “13” of the complaint, except admits that plaintiff was transported to the 42nd Precinct.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “14” of the complaint.

15. Denies of the allegations set forth in paragraph “15” of the complaint.

16. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “16” of the complaint, except admits that plaintiff was transported to Bronx Central Booking.

17. Denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in paragraph “17” of the complaint, except admits that, on January 19, 2012, the charges against plaintiff were dismissed.

18. In response to the allegations set forth in paragraph “18” of the complaint, defendant repeats and realleges each of the foregoing paragraphs.

19. Denies the allegations set forth in paragraph “19” of the complaint.

20. Denies the allegations set forth in paragraph “20” of the complaint.

21. In response to the allegations set forth in paragraph “21” of the complaint, defendant repeats and realleges each of the foregoing paragraphs.

22. Denies the allegations set forth in paragraph “22” of the complaint.

23. Denies the allegations set forth in paragraph “23” of the complaint.

24. In response to the allegations set forth in paragraph “24” of the complaint, defendant repeats and realleges each of the foregoing paragraphs.

25. Denies the allegations set forth in paragraph “25” of the complaint.

26. Denies the allegations set forth in paragraph “26” of the complaint.

27. Denies the allegations set forth in paragraph “27” of the complaint.

28. Denies the allegations set forth in paragraph “28” of the complaint.

29. Denies the allegations set forth in paragraph “29” of the complaint.

30. In response to the allegations set forth in paragraph “30” of the complaint, defendant repeats and realleges each of the foregoing paragraphs.

31. Denies the allegations set forth in paragraph “31” of the complaint.

32. Denies the allegations set forth in paragraph “32” of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE:

33. The complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE:

34. Defendant has not violated any rights, privileges or immunities under the Constitution or laws of the United States or the State of New York or any political subdivision thereof, nor has defendant violated any act of Congress providing for the protection of civil rights.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE:

35. There was probable cause for plaintiff's arrest, detention, and prosecution, if any.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE:

36. Any injury alleged to have been sustained resulted from plaintiff's own culpable or negligent conduct, or the culpable or negligent conduct of others, and was not the proximate result of any act of defendants.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE:

37. Plaintiff's claims may be barred, in whole or in part, by the applicable limitations period.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE:

38. Plaintiff may have failed to comply with the conditions precedent to suit.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE:

39. At all relevant times defendant Rodriguez acted reasonably and in the lawful exercise of his discretion.

AS AND FOR AN EIGHTH AFFIRMATIVE DEFENSE:

40. Defendant Rodriguez has not violated any clearly established constitutional or statutory rights of which a reasonable person would have known and, therefore, is protected by qualified immunity.

WHEREFORE, defendant requests judgment dismissing the complaint in its entirety, together with the costs and disbursements of this action, and such other and further relief as the Court may deem just and proper.

Dated: New York, New York
December 17, 2014

ZACHARY W. CARTER
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Attorney for Defendant City of New York
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By: /s/
Patrick Beath
Assistant Corporation Counsel

cc: Vik Pawar, Esq. (By ECF)